



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C.

UNDER SECRETARY

OCT 24 2000

The Honorable William V. Roth, Jr.  
Chairman  
Committee on Finance  
United States Senate  
Washington, D.C. 20510-0801

Dear Mr. Chairman:

I am writing to express the opposition of the Treasury Department to a measure that we understand may be offered during conference for inclusion in H.R. 4868, the Miscellaneous Trade and Technical Corrections Act of 2000. This measure, which has not been the subject of a hearing in either the House or Senate, would exempt certain importers of petroleum products from Article 303 of the North American Free Trade Agreement (NAFTA), which restricts waivers and refunds of duties paid on goods that are processed in one NAFTA party and exported to any other NAFTA party. The proposed measure sets a precedent for unilateral waiver of Article 303 by the United States. If Canada and Mexico were to adopt a similar policy, which this measure could prompt them to do, it would undermine a major trade concession that we won in the NAFTA, just two months ahead of the NAFTA deadline for Mexican compliance.

Article 303 of the NAFTA limits the use of export-conditioned duty remission programs, such as the U.S. drawback program, Canada's inward processing program, and Mexico's maquiladora program, when goods are exported to another NAFTA country. The U.S. Administration sought this provision in the NAFTA for two reasons:

(1) Prior to a free trade agreement, such as the NAFTA, manufacturers would have an incentive to locate manufacturing in their largest market in the future free trade area, so that they pay duties only on parts and materials rather than on finished goods when they sell in the largest market. After a free trade agreement, *in the absence of a provision such as Article 303 that eliminates export-conditioned duty remission programs*, manufacturers would have an incentive to locate in their smallest market within the free trade area. Since duties on finished goods are eliminated for sales in the free trade area, manufacturers would pay duties only on parts and materials for goods that they sell in the country of manufacture (duties on exports would be rebated or waived). This would create an incentive after entry into a free trade area to move manufacturing out of the United States to the smaller markets within the free trade area.

(2) Article 303 ends the inequities associated with Mexico's maquiladora program. Prior to the NAFTA, Mexican maquiladoras were virtually locked out of the Mexican market, largely by the legal provisions that waived or refunded duties on imported parts and materials only if the finished goods were exported. As a result, maquiladoras became

export platforms, with the Mexican economy getting all of the jobs but providing none of the market. Article 303 of the NAFTA ends this inequity.

In the absence of Article 303, agricultural or chemical materials, for example, that are dutiable in all three NAFTA countries may be brought into Mexico or Canada, processed there, and exported to the United States with no duty paid on either the non-NAFTA inputs or the finished products. This not only circumvents the MFN duties maintained by the NAFTA parties, it also undermines the intent of the NAFTA to create a preference for materials acquired from within the NAFTA area. If the United States unilaterally repudiates Article 303 for any industrial sector it could prompt both Mexico and Canada to follow suit, with results that are highly disadvantageous to the United States, and particularly to U.S. workers.

We urge you to reject this measure if it is offered in conference. At a minimum, it should be the subject of hearings in the House and Senate where the consequences of its enactment, including revenue losses, can be fully considered by the Congress.

Thank you for your attention to these matters. The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this letter.

Sincerely,

Sincerely,

James E. Johnson  
Under Secretary (Enforcement)

Timothy F. Geithner  
Under Secretary (International Affairs)

Identical letters to:

Daniel Patrick Moynihan, Ranking Minority Member, Committee on Finance  
William R. Archer, Chairman, Committee on Ways and Means  
Charles B. Rangel, Ranking Minority Member, Committee on Ways and Means